



INTELLECTUAL PROPERTY  
402-391-4448

JAMES D. WELCH  
ATTORNEY AT LAW  
PROFESSIONAL ENGINEER

AF/IFW

April 29, 2007

10328 PINEHURST AVE.  
OMAHA, NEBRASKA 68124

Commissioner for Patents  
Box: 1450  
Alexandria, VA 22313-1450

RE: APPLICATION OF WELCH TITLED: "METHOD OF PROVIDING AUDIO  
FORMAT PROFESSIONAL INFORMATION UPDATE SERVICE FOR PAYMENT,  
VIA INTERNET";  
SERIAL NO.: 10/796,162;  
FILE DATE: 03/09/2004;  
ART UNIT: 3028;  
EXAMINER: POND, R.

RESPONSE AFTER FINAL

I am in receipt of an Office Action dated 04/17/07,  
regarding the identified Application. The Examiner maintains  
his position based on Allison 230, and various materials of  
Lawcast.

Applicant requests reconsideration. To begin, please note  
Col. 2, Lines 60 - 64 in Allison 230, wherein in direct  
contradiction to the Examiner's position, it states:

Fig. 5 is an exemplary user interface page incorporated in  
the remote diagnostic system (or workstation) for placing  
requests, and sending and receiving competency test and  
training course data between the training facility and the  
remote diagnostic system; (emphasis added---to indicate that  
the term "and" indicates that competency tests as well as  
courses MUST be sent and received under the Allison 230  
teachings! Had Allison 230 contemplated eliminating the  
testing, it should have used the word "or". To complete the  
point, there is NO competency testing required in the  
present invention and nothing in Allison 230 suggests it be  
deleted!)

Continuing, as best understood, the basis of the Examiner's position regarding citing Allison 230 is that it allows a user to access a Fig. 5 Page (110) without first taking a competency test, and that since said page (110) includes Buttons labeled "Competency Tests" (182) and "Recent Messages" (194), said user is able to, without more, directly access:

audio format professional continuing education information  
available from audio information format machine readable  
storage via said web site, in topical categories

This is not at all understood! Applicant finds no indication in Allison 230 that a user, upon first accessing Page (110) would access anything by operating button (184), or that operating button (194) would provide access to anything beyond information regarding the latest news and recent additions to the site, which latest news and recent additions to the site are displayed, (as opposed to provided in an audio format). See Allison 230 Col. 9, Lines 34-37 which state:

...In addition to these navigational devices, main page 110 includes a message area 194, in which information regarding the latest news and recent additions to the site are displayed. (emphasis added, and note---nothing in Allison 230 requires accessing of area 194 whereas the present invention requires repeated Claim 1 step d access of audio updates).

(For general insight it is noted at this point that Col. 6, Lines 46-51 in Allison state:

...It should be noted that as used herein the term "page" includes a user interface screen or similar arrangement which

can be viewed by a user of the diagnostic system, such as screens providing graphical or textual representations of data, messages, reports and so forth. (emphasis added to show the terminology "page" does not mean audio)).

Further, in addition to the above Col. 2, Lines 60 - 64 description of the Allison 230 Fig. 5, Applicant finds a very definite Flowchart in Fig. 10, which clearly indicates that courses are searched for and displayed (260) (262) based on the results of a deficiency being identified (260) in view of the results of a test evaluation (258). Again, the teachings of Allison 230 do NOT provide that upon first accessing the Page shown in Fig. 5, any listing of courses would appear upon the operation of button (184). Allison 230 teaches that until a user accesses a Fig. 6 Page (112) and thereafter searches for and identifies at least one Test (206) and takes a test (206), then learns, via accessing a Fig. 7 Page (178), that he or she has deficiencies, and then clicks on a Button (218) in Fig. 7, will any Courses be identifiable. Note also that a Fig. 8 Page must be accessed to learn what Course(s) (226) can be accessed. Only after a user goes through the Fig. 10 procedure and takes a test that identifies deficiencies will his or her operating Button (184) identify anything at all. While Allison 230 is silent on the point, most likely an error message would appear under the Allison scheme to the effect that said field is empty. Careful Reasoning requires something like this must be the conclusion. If, upon first accessing a Fig. 5 Page (110), clicking on Button (184) therein, without more, caused display of a list of Courses, an infinite number of them would be candidate for inclusion. Such a listing of somehow related Courses would be useless to a user as he or she would have no way to know which to choose. This is because when a user first accesses a Fig. 5 Page (110) no specific deficiency correcting Course topic has been identified

as candidate for inclusion on a list. Even if its argued that access to Fig. 5 Page (110) is via a diagnostic system so the request provides a topic, it is completely unknown what deficiency a user would have with respect thereto and what Courses should be advised in view thereof. Again, even given a category of a diagnostic system there would be a functionally infinite number of possible Course inclusions. ONLY after a user has identified and taken a test, the results of which indicate a deficiency, is there any way for the Allison 230 method to identify a relevant listing of Courses that could specifically help a user. To argue otherwise is to argue that Allison 230 provides no utility.

In contrast, when a user of the present invention first accesses the website thereof, he or she can beneficially access a finite listing of what topical categories are available. While the user of the present invention need not necessarily access a listing of them, a relevant listing can be provided by operation of a Button such as Button (184) in Allison (230), (see Claim 11 for a sample listing which could be provided).

For the record Applicant strongly disagrees that a period of 5 months is evidence of a lack of due dilligence in establishing a Provisional Filing Date.

No change is requested to Claims so no new listing is included.

It is hoped that an RCE will not be necessary in this case.

Sincerely,



JAMES D. WELCH

JW/hs



CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS TRANSMITTAL IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE FOR FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER FOR PATENTS, BOX: 1450, ALEXANDRIA VA. 22313-1450 ON THE DATE INDICATED BELOW.

  
JAMES D. WELCH

4/29/07  
DATE